

REMARKS

1. Summary of Office Action

In the Office Action mailed October 6, 2008, the Examiner rejected claims 1-13 and 37-44. Claims 1-13 and 37-44 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. 5,659,250 (“Hendricks”) in view of EP 1 100 266 A2 (“Gaske”).

2. Status of Claims

Currently pending are claims 1-13 and 37-44 of which claims 1 and 41 are independent, and the remainder of the claims are dependent. In this response, independent claims 1 and 41 have both been amended.

3. Response to Rejections under 35 U.S.C. § 103(a)

Regarding independent claim 1, the present application claims a system having first platform and second platforms communicatively coupled, cooperatively providing an interface for purchasing a right to render the stored media content. The first and second platforms convert stored media content to a renderable state upon purchase of the right to render, wherein the media content is stored at the subscriber location. The present application also teaches a “discovery service” operable to search for stored media content and to download content based on a content profile as discussed on pages 10-11 of the disclosure.

Hendricks describes a system for providing organized and packaged cable television programming to consumer homes without consumers “being bombarded with programming options, numerous ‘free’ cable channels, subscription cable channels and pay-per-view choices.

Any further increase in TV entertainment choices will likely bewilder viewers with a mind-numbing array of choices.” (col. 2, lines 10–14).

In Hendricks, television programs are packaged and encoded for the purpose of more efficient transmission over satellite to a set top box. (col. 8, lines 23–27) At the set top box, programming is decoded *upon reception*. Upon receipt at the set top terminal 220, “the signals are demultiplexed, decompressed, converted to analog signals (if necessary) and either placed in local storage (from which the menu template may be created, executed immediately, or sent directly to the television screen.” (col. 10, lines 62–67). Thus, programming in Hendricks’ is renderable upon receipt at the set top box. In fact, Hendricks is based on subscriptions to programming wherein the consumer has access to specific channels (col. 7, lines 39-60). As such, issues regarding digital rights involved are resolved by a subscription *ahead of receiving* the media content.

In contrast to the Applicant’s present pending claims, Hendricks does not teach wherein the media content is “*unrenderable due to digital rights*” associated with the content when received by the first platform. The presently pending application resolves digital rights and access on an individual program basis wherein conversion of the stored media content to a renderable state takes place upon the purchase of the right to render, as presently claimed.

As such, Hendricks fails to teach the media content comprises an unrenderable state due to digital rights associated with the content when received by the first platform, as well as converting the stored media content to a renderable state upon the purchase of the right to render. In addition, Hendricks also fails to disclose that the media content is stored at the subscriber location where it is later made renderable either through payment or other means. Further, Hendricks fails to teach a discovery service operable to search for stored media content and to

download content based on a content profile as called for by currently amended independent claims 1 and 41 and disclosed on pages 10-11 of the original application.

Combination with Gaske does not cure the deficiencies of Hendricks. First, one of skill would not combine the subscription model of Hendricks with Gaske. The motivation behind Hendricks is to package together a collection of programming in a subscription service to avoid the pay-per-individual view model of Gaske. Gaske relates to the type of more flexible pay-per-view programming entertaining choices, which according to Hendricks, “will likely bewilder viewers with a mind-numbing array of choices.” As such, Applicants respectfully submit that one of skill in the art would not combine Hendricks with Gaske.

Moreover, even if one were to combine Hendricks with Gaske, the combination would not result in Applicants’ presently claimed invention. (para. 9). Gaske is absent a discovery service to search for content to be downloaded. Applicants have amended independent claims 1 and 41 to clarify this aspect of the presently claimed invention.

Accordingly, Applicants respectfully submit that claim 1 is in condition for allowance. Claim 41 contains limitations to that of claim 1, claims 2-12 and 37-40 ultimately depend from claim 1, and claims 42-44 ultimately depend from claim 41. As such, Applicants also believe that claims 2-13 and 37-44 are in condition for allowance.

CONCLUSION

The Applicants submit that the application is in good and proper form for allowance and respectfully request the Examiner to pass this application to issue. Because the independent claims 1 and 41 are allowable, the dependent claims are allowable for the same reasons. If, in

the opinion of the Examiner, a telephone conference would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney, at 312-913-2134.

Respectfully submitted,

McDONNELL BOEHNEN
HULBERT & BERGHOFF LLP

Date: February 6, 2009

By: /George I. Lee/
George I. Lee
Registration No. 39,269